

A Dental Crown would qualify as a medical appliance because it substitutes for a malfunctioning part of the body. See 86 Ill. Adm. Code 130.310. (This is a GIL.)

November 6, 2000

Dear Xxxxx:

This letter is in response to your letter dated June 29, 2000 that was received in our office on July 17, 2000. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), which can be accessed at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

I am conducting a survey to ensure that we are taxing correctly in all states. We are a retailer of dental supplies and equipment with salespeople and repair technicians located in all states.

I would like a determination of the taxability of the following items, when purchased by a dentist for use in their practice.

Fluoride solutions, these are gel or foam based solutions which are put into a tray and inserted into the patients mouth for a minute or two in order to allow the fluoride to penetrate the enamel of the teeth. They are used to control decay, hypersensitivity and plaque.

Prophy pastes, these are mildly abrasive pastes used by a technician to clean and polisy the patients teeth, and come in both fluoridated and non-fluoridated versions.

Bleaching products, used to whiten the teeth, both in-office using a 35% solution of hydrogen peroxide, and at-home using a 10 – 15% solution of carbamide peroxide.

Impression materials, used to take an impression of the patients teeth, as the first step in the fabrication of a crown or other dental appliance.

Disposable gloves, latex or non-latex, worn by the dentist and technicians while working on the patient to prevent cross-infection.

Workwear, scrubs and lab coats, worn by the dentist and technicians while working, both disposable and washable.

If there are any questions please contact me at #####.

We have enclosed a copy of 86 Ill. Adm. Code 130.310 regarding the taxation of Food, Drugs, Medicines and Medical Appliances. Those products that qualify as medicines, drugs, or medical appliances are taxed at the reduced low rate of 1% plus applicable local taxes. Those that do not qualify for the low rate are taxed at the State rate of 6.25%, plus applicable local taxes.

The definition of a medical appliance is "an item which is intended by its manufacturer for use in directly substituting for a malfunctioning part of the body." Please note that 86 Ill. Adm. Code 130.310(c)(2) provides that medical appliances may be prescribed by licensed health care professionals for use by a patient, purchased by health care professionals for the use of patients, or purchased directly by individuals. In addition, not all items prescribed by physicians or other licensed health care professionals qualify for the low rate. A medicine or drug is defined at Section 130.310(c)(1) as "any pill, powder, potion, salves, or other preparation intended by the manufacturer for human use and which purports on the label to have medicinal qualities."

Examples of items that qualify for the reduced rate are artificial limbs, dental prostheses and orthodontic braces, heart pacemakers, crutches and orthopedic braces, and wheelchairs.

As a general proposition, diagnostic, treatment, and rehabilitative equipment items do not qualify for the reduced rate of tax as medical appliances because such items are not "for use in directly substituting for a malfunctioning part of the body," 86 Ill. Adm. Code 130.310(c)(2).

You can determine the tax status of the items listed in your letter by applying these principles. For example, fluoride solutions and fluoride pastes probably make a medical claim so they would qualify for the low rate. However, a non-fluoridated paste or bleaching product used to whiten teeth for cosmetic purposes would probably not qualify for the lower rate.

While a dental crown would qualify as a medical appliance because it substitutes for a malfunctioning part of the body, disposable impression materials themselves do not so substitute and would thus be fully taxable. Gloves, scrubs, lab coats and other work clothing are all consumable supplies subject to the full rate of tax.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Very truly yours,

Karl W. Betz
Associate Counsel

KWB:msk
Enc.